

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T.A. Nos. 74 to 76/Asr/2019

Assessment Years: 2008-09 to 2010-11

Sh. Subhash Chander
Sehgal, H.No.742, Rabwali
Gali, Sardar Nagar, Moga

[PAN: AFLPC 4832Q]

(Appellant)

Vs. Income Tax Officer
Ward 2, Moga

(Respondent)

Appellant by : None

Respondent by: Sh. Mohit Kumar, Sr. DR

Date of Hearing: 02.08.2023

Date of Pronouncement: 17.08.2023

ORDER

Per Bench:

These appeals have been filed by the by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-3, Ludhiana even dated 05.11.2018 in respect of Assessment Years: 2008-09 to 2010-11 wherein the appellant has challenged that the Id. CIT(A) has summarily

rejected the appeals without considering details of statement of facts and the written submissions filed by the appellant assessee.

2. None appeared nor any adjournment application has been filed by the assessee. Considering written synopsis of 12 pages and the paper book comprising of 72 pages filed on record on 20th April, 2023, it noted that the grievance of the assessee has been overlooked by the CIT(A) by not taking cognizance of the submissions of the appellant assessee and rejected its appeal in summary manner by passing the order ex-parte qua the assessee. However, it is decided to hear the Id. DR and adjudicate the appeal on merits of the case.

3. From the record, it is seen that the assessee has made investment in property on different dates out of the cash as claimed being available with the appellants on the date of investment in disputed properties. However, the appellant assessee contended that the AO and the Id. CIT(A) has rejected the submission and documentary evidences filed by the appellant on the availability of cash in hand as opening balance and investment in properties and cash credits in bank account u/s 68 of the I. T. Act without granting proper opportunity of being heard to the appellant and ignoring the facts available on record and the information and documentary evidences

filed before the authorities below. It is also pleaded in grounds that the additional evidence under Rule 46A was rejected in violation of the provisions of law.

4. Having heard the Id. DR and perusal of the impugned order, it is revealed that the Id. CIT(A) has rejected the assessee's explanation and application filed under Rule 46A for admission of additional evidence merely stating as deserved to be rejected without giving any reason for rejection of the additional evidence in view of the provisions of Rule 46A of the ITAT Rule 1963. In our view, the Id. CIT(A) ought to have rebutted the admission of additional evidence being not covered under the four exceptions provided under Rule 46A of the ITAT Rule 1963 for non-admission of the additional evidence filed by the assessee.

5. It is seen that the Id. CIT(A) has not issued a show cause notice to the appellant assessee regarding adverse inference/decision taken against the assessee in confirming the finding of the AO so as to enable the appellant to file its rebuttal in its defense in view of the principle of natural justice. In our view, it is a fit case to be remanded back to the Id. CIT(A) to examine the issue of admission of the additional evidence under Rule 46A afresh and consider the written submission filed on record and may be filed

in the afresh proceedings after granting sufficient opportunity of being heard. The Id. CIT(A) is further directed to issue a show cause notice to the appellant assessee stating therein the proposed adverse action if any to enable it to file the rebuttal in view of the principle of natural justice. No doubt, the assessee shall co-operate in the fresh appellate proceedings before the Id. CIT(A). Accordingly, all the three appeals in ITA Nos. 74 to 76/Asr/2019 on identical facts are restored back to the file of the Id. CIT(A).

6. In the result, the subject appeals filed by the assessees are allowed for statistical purpose.

Order pronounced in the open court on 17.08.2023

Sd/-
(Anikesh Banerjee)
Judicial Member

Sd/-
(Dr. M. L. Meena)
Accountant Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT(Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T.

True Copy
By Order